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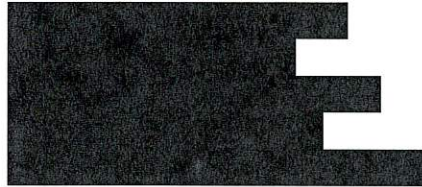
One Hundred Seventeenth Congress

Select Committee to Investigate the January 6th Attack on the United States Capitol

November 8, 2021

VIA ELECTRONIC MAIL

John Eastman



Dear Professor Eastman:

Pursuant to the authorities set forth in House Resolution 503 and the rules of the House of Representatives, the Select Committee to Investigate the January 6th Attack on the United States Capitol (“Select Committee”) hereby transmits a subpoena that compels you to produce the documents set forth in the accompanying schedule by November 22, 2021, and to appear for a deposition on December 8, 2021.

The Select Committee is investigating the facts, circumstances, and causes of the January 6th attack and issues relating to the transfer of power, in order to identify and evaluate lessons learned and to recommend to the House and its relevant committees corrective laws, policies, procedures, rules, or regulations.

The Select Committee’s investigation and public reports have revealed credible evidence that you know about, and may have participated in, attempts to encourage the Vice President of the United States to reject the electors from several states or, at the very least, to delay the electoral college results to give states more time to submit different slates of electors. In fact, you reportedly wrote two memoranda offering several scenarios for the Vice President to potentially change the outcome of the 2020 Presidential election. The two-page version of the memorandum expressly sets forth a six-part proposed plan of action, stating, “So here’s the scenario we propose.”¹ It concludes that, “[t]he fact is that the Constitution assigns this power to the Vice President as the ultimate arbiter. We should take all of our actions with that in mind.”² The longer version of the

¹ READ: *Trump lawyer’s memo on six-step plan for Pence to overturn the election*, CNN (September 21, 2021), found at <https://www.cnn.com/2021/09/21/politics/read-eastman-memo/index.html>.

² *Id.*

memorandum “war gam[es]” several scenarios, including scenarios in which the Vice President rejects ballots from certain states and President Trump is re-elected.³

In addition, according to public reporting, on or about January 2, 2021, you participated in a briefing for nearly 300 state legislators from several states regarding purported election fraud, during which you told the group that it was “the duty of the legislatures to fix this, this egregious conduct, and make sure that we’re not putting in the White House some guy that didn’t get elected.”⁴ On December 3, you testified to Georgia state senators regarding alleged voter fraud and reportedly shared a paper that argued that the state legislature could reject election results and directly appoint electors.⁵ On January 3 and again the next day, you met with President Trump, Vice President Pence, and others to explain your theory about the Vice President’s purported authority.⁶ On January 5, you reportedly communicated again with the Vice President’s counsel, Greg Jacob, regarding your proposal,⁷ and you were at the Willard Hotel “war room” with Steve Bannon and others on the days leading up to January 6 where the focus was on delaying or blocking the certification of the election.⁸

Then, on January 6, you spoke at the rally at the White House Ellipse.⁹ During that day, you reportedly emailed Mr. Jacob about the attack on the U.S. Capitol and said that “[t]he ‘siege’ is because YOU and your boss did not do what was necessary to allow this to be aired in a public way so that the American people can see for themselves what happened.”¹⁰ After the riot ended you reportedly “told Jacob in another email that Pence should still not certify the results.”¹¹

³ READ: Trump lawyer’s full memo on plan for Pence to overturn the election, CNN (September 21, 2021), found at <https://www.cnn.com/2021/09/21/politics/read-eastman-full-memo-penceoverturn-election/index.html>.

⁴ Election integrity group meets with legislators from contested states, PR NEWswire (January 2, 2021), found at <https://www.prnewswire.com/news-releases/election-integrity-group-meets-with-legislators-from-contested-states-301199902.html>.

⁵ Josh Dawsey, Jacqueline Alemany, Jon Swaine, and Emma Brown, *During Jan. 6 riot, Trump attorney told Pence team the vice president’s inaction caused attack on Capitol*, WASHINGTON POST (October 29, 2021), found at https://www.washingtonpost.com/investigations/eastman-pence-email-riot-trump/2021/10/29/59373016-38c1-11ec-91dc-551d44733e2d_story.html.

⁶ Michael S. Schmidt and Maggie Haberman, *The Lawyer Behind the Memo on How Trump Could Stay in Office*, NEW YORK TIMES (October 2, 2021), found at <https://www.nytimes.com/2021/10/02/us/politics/john-eastman-trump-memo.html>.

⁷ *Id.*

⁸ Jacqueline Alemany, Emma Brown, Tom Hamburger, and Jon Swaine, *Ahead of Jan. 6, Willard hotel in downtown D.C. was a Trump team ‘command center’ for effort to deny Biden the presidency*, WASHINGTON POST (October 23, 2021), found at https://www.washingtonpost.com/investigations/willard-trump-eastman-giuliani-bannon/2021/10/23/c45bd2d4-3281-11ec-9241-aad8e48f01ff_story.html.

⁹ John McCormack, *John Eastman v. the Eastman Memo*, NATIONAL REVIEW (October 22, 2021), found at <https://www.nationalreview.com/2021/10/john-eastman-vs-the-eastman-memo/>.

¹⁰ Josh Dawsey, Jacqueline Alemany, Jon Swaine, and Emma Brown, *During Jan. 6 riot, Trump attorney told Pence team the vice president’s inaction caused attack on Capitol*, WASHINGTON POST (October 29, 2021), found at https://www.washingtonpost.com/investigations/eastman-pence-email-riot-trump/2021/10/29/59373016-38c1-11ec-91dc-551d44733e2d_story.html.

¹¹ *Id.*

Your documents and testimony are directly relevant to the Select Committee's investigation, as you appear to have been instrumental in advising President Trump that Vice President Pence could determine which electors were recognized on January 6, a view that many of those who attacked the Capitol apparently also shared.¹² Although you served as an attorney for President Trump in his capacity as a candidate for re-election,¹³ you have made extensive public comments regarding your legal advice, including your direct discussions with President Trump.¹⁴ In fact, you have stated publicly that President Trump has authorized you to discuss the matters at issue, thus waiving any applicable attorney-client and attorney work product privileges.¹⁵

Accordingly, the Select Committee seeks documents and a deposition regarding these and other matters that are within the scope of the Select Committee's inquiry. A copy of the rules governing Select Committee depositions, and document production definitions and instructions are attached. Please contact staff for the Select Committee at 202-225-7800 to arrange for the production of documents.

Sincerely,

A handwritten signature in blue ink that reads "Bennie G. Thompson". The signature is fluid and cursive, with the first name "Bennie" being more prominent.

Bennie G. Thompson
Chairman

¹² James Crowley, *Twitter Confirms it Halted 'Hang Mike Pence' as a Trending Topic*, NEWSWEEK (January 9, 2021), found at <https://www.newsweek.com/twitter-stops-hang-mike-pence-trending-1560253>.

¹³ https://www.supremecourt.gov/DocketPDF/22/22O155/163234/20201209155327055_No.%2022O155%20Original%20Motion%20to%20Intervene.pdf.

¹⁴ See, e.g., Michael S. Schmidt and Maggie Haberman, *The Lawyer Behind the Memo on How Trump Could Stay in Office*, NEW YORK TIMES (October 2, 2021), found at <https://www.nytimes.com/2021/10/02/us/politics/john-eastman-trump-memo.html>; John McCormack, *John Eastman v. the Eastman Memo*, NATIONAL REVIEW (October 22, 2021), found at <https://www.nationalreview.com/2021/10/john-eastman-vs-the-eastman-memo/>; John C. Eastman, *John Eastman: Here's the Advice I Actually Gave Vice President Pence on the 2020 Election*, THE SACRAMENTO BEE (October 7, 2021), found at <https://www.sacbee.com/opinion/op-ed/article254812552.html>.

¹⁵ See, e.g., Lessig, L. (Producer). (September 27, 2021). *Discussing the John Eastman Memo with John Eastman* [Audio podcast]. Retrieved from <https://equalcitizens.us/discussing-the-john-eastman-memo-with-john-eastman/>. Boyles, P. (Producer). (May 5, 2021). *Peter Boyles on Demand* [Audio podcast]. Retrieved from <https://omny.fm/shows/peter-boyles-show/peter-boyles-may-5-8am-1#description>.